

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4579 OF 2006

Suresh Chandulal Holkar ..Applicant
V/s
State of Maharashtra ..Respondent.

Mr. Yogesh Pawar, Advocate for the applicant.

Mrs. M.H. Mhatre, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 14TH FEBRUARY, 2007.

P.C.

Heard Mr. Pawar learned Counsel for the applicant and Mrs. M.H. Mhatre, learned APP for the State.

2. The applicant seeks to be released on bail in Crime No. 111/2006 registered at Vadgaon Nimbhori Police Station for the offence under Section 304 r/w section 34 Indian Penal Code.

3. The prosecution case, in brief, is that the present applicant and his father used to run bricks kiln at Hole, Tal. Barmati, District Pune and for the purpose of manufacturing bricks they had constructed a

water tank, which bursted on 6/11/2006 resulting in death of five persons namely Janabai wife of Atmaram Chavan aged 22 years, Manisha wife of Sunil aged 20 years, Sonya Son of Atmaram Chavan, Guglya son of Sunil, aged 2 years and Purnima D/o Atmaram Chavan aged 11 months. The police arrested the present applicant, his father and one Bhausahab Nagu Dhotre, who had constructed the tank, as a contractor. Bail is granted to Bhausahab Dhotre by the Lower Court, while the present applicant and his father are in custody. According to the present applicant, his father was responsible for running business and water tank was got constructed by his mother, who is no more alive. Anyhow, he made an offer to give one Acre agricultural land out of Gat No.11, Mauje Korhale Khurd, Tal. Baramati, District Pune in his affidavit dated 25/1/2007 as compensation to the family of the deceased. On the last date, he was asked to quantify and to state when compensation may be given to the legal heirs of the deceased. Today he has filed another affidavit dated 12th February, 2007, wherein he states that he is willing to pay maximum compensation in cash without specifying the amount. Learned Counsel for the applicant makes a statement, on instructions, that the

applicant is willing to pay amount of Rs. Three lacs as compensation provided some time is given to him. He is willing pay Rs. One Lac immediately. It may be noted that on earlier date the learned Counsel for the applicant had stated that the value of one acre land may be around Rs. Seven Lacs. In these circumstances, I find that it should be left to the parties to determine what may be reasonable compensation and whether the legal heirs of the deceased are willing to accept one acre land or cash compensation as offered by the applicant. Meanwhile, bail may be granted to the present applicant with certain conditions.

4. The applicant be released on his executing P.R. of Rs. 15,000/- with surety in like amount with conditions that he shall not tamper with prosecution evidence and with further conditions that he shall deposit Rs. One lac in the Court of Additional Sessions Judge, Baramati, within one week from this date and shall deposit further amount of Rs. Two Lacs within one month thereafter. The learned Additional Sessions Judge shall call the legal heirs of the deceased namely Atmaram Chavan and Sunil Chavan and others, if any, as well as the present applicant and his father and find

out whether the legal heirs want to accept one Acre land as compensation or they want to accept amount of Rs. Three lacs as compensation. They shall also be at liberty to amicably settle the reasonable compensation. After settlement the learned Additional Sessions Judge shall pass an appropriate order about the payment of amount to the legal heirs or to refund the same to the present applicant.

5. Application stands disposed of accordingly.

(J.H. BHATIA, J.)